

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

BLACK WARRIOR RIVER-KEEPER,
INC., *et al.*,

Plaintiffs,

v.

BLUESTONE COKE, LLC, *et al.*,

Defendants.

Case No.: 2:23-cv-1211-RDP

ORDER

This matter is before the court on Plaintiffs’ Motion to Compel (Doc. # 42) and Plaintiffs’ Motion to Enforce (Doc. # 47). The Motions were discussed during the hearing held August 21, 2024.

Plaintiffs’ Motions, as they relate to Defendants’ overdue production of discovery, are now ripe for a decision by the court. Defendants have violated three separate court orders requiring them to produce responses and negotiate, in good faith, dates for depositions. (*See* Docs. # 38, 43, 46). Plaintiffs produced several emails in which they requested information or responses from Defendants and received no response, often as the parties approached looming litigation deadlines. (*See* Doc. # 42-1 at 4-7). And, although the court issued an Order directing that “the parties themselves **SHALL** all attend the in-person hearing” scheduled for July 30, 2024 (Doc. # 48) and then rescheduled for August 21, 2024 (Doc. # 50), Defendants did not attend the hearing on August 21, 2024.

“Civil contempt ‘may be imposed in an ordinary civil proceeding upon notice and an opportunity to be heard.’” *Serra Chevrolet, Inc. v. Gen. Motors Corp.*, 446 F.3d 1137, 1147 (11th Cir. 2006) (quoting *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418 (1911)). Both of these

requirements have been satisfied. (Docs. # 33, 42, 43, 47). “Th[e c]ourt is [also] empowered by 18 U.S.C. § 401 to punish parties who violate its orders, injunctions, and judgments.” *Nat’l Comm’n for Certification of Crane Operators*, 2022 WL 9544306, at *1. And, “under [Federal Rule of Civil Procedure] 45(g), a district court ‘may hold in contempt a person who, having been served, fails without adequate excuse to obey . . . an order.’” *Id.*

Therefore, Plaintiffs’ Motion to Compel Defendants’ Discovery Responses and Motion for Attorneys’ Fees by Black Warrior River-Keeper, Inc., and GASP (Doc. # 42), which the court treats as consolidated with Plaintiffs’ Motion to Enforce Court’s Discovery Orders (Doc. # 47), is **GRANTED IN PART** to the extent they seek to enforce this court’s discovery orders, but **DENIED IN PART** to the extent they seek sanctions. Defendants are **DIRECTED** to produce responses to Plaintiffs’ pending discovery requests, responses to Plaintiffs’ requests for deposition dates, and responses to Plaintiffs’ requests for alternative mediation dates. The court finds as follows:


1. The court’s Orders on May 16, 2024 (Doc. # 48), June 26, 2024 (Doc. # 43), and July 1, 2024 (Doc. # 46) were valid, clear, and unambiguous;
2. Defendants Bluestone Coke, LLC, Donald Wiggins, and James “Jay” Justice, III failed to comply with these court Orders; and
3. Defendants Bluestone Coke, LLC, Donald Wiggins, and James “Jay” Justice, III were given notice and an opportunity to be heard as to why they should not be held in contempt and were allowed the opportunity to purge themselves of contempt, but failed to do so.

Accordingly, it is **ORDERED** as follows: Bluestone Coke, LLC, Donald Wiggins, and James “Jay” Justice, III are found to be in civil contempt for failure to comply with this court’s

May 16, 2024, June 26, 2024, and July 1, 2024 Orders. Defendants may purge the contempt by, **on or before September 11, 2024**, (1) paying Plaintiffs' reasonable costs and fees, and (2) producing responses to Plaintiffs' pending discovery requests, responses to Plaintiffs' requests for deposition dates, and responses to Plaintiffs' requests for alternative mediation dates. Plaintiffs are **FURTHER ORDERED** to certify **on or before September 11, 2024** whether Defendants are in compliance with this Order.

Any failure to comply with this Order or to cooperate or participate **SHALL** result in an order that Defendants appear and show cause in person as to why they are not in compliance with this Order and why the court should not impose further contempt sanctions. Failure to appear and show cause in person may result in (a) monetary sanctions, (b) an order of default, and (c) other appropriate sanctions.

DONE and **ORDERED** this August 22, 2024.


R. DAVID PROCTOR
CHIEF U.S. DISTRICT JUDGE